SBCivil Writ Petition No.4642/2004

Lalit Kumar Verma
Vs.
State of Rajasthan & Ors.

Date of Order :: 1st August, 2006

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. D.S.Rajvi, for the petitioner.
Mr. B.L.Tiwari, Dy.Govt.Advocate.

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By an advertisement dated 28.7.2003 the respondents invited applications from eligible candidates for the purpose of appointment to the post of Physical Training Instructor Gr.III. The petitioner in pursuant thereto faced the selection proceedings and was placed at Serial No.11 in the select list. It is pertinent to note that the selection took place to fill in the 10 existing vacancies of Physical Training Instructor Gr.III in the District of Churu and out of 10 first selected candidates in order of merit the incumbent at Serial No.5 was not found fit to be employed as Physical Training Instructor Gr.III due to adverse character verification by the police authorities. The petitioner, therefore, claimed for appointment as Physical Training Instructor Gr.III against 10th vacancy. For this purpose the petitioner preferred a writ petition before this Court, that came to be disposed of by an order dated 19.8.2004 directing the petitioner to file a fresh representation before the respondents and the respondents were directed to consider the representation objectively. In compliance of the order

dated 19.8.2004 the petitioner submitted a representation to the District Education Officer (Secondary), Churu on 30.8.2004 that came to be decided by an order dated NIL (Anx.16). By order Anx.16 the claim made by the petitioner for appointment as Physical Training Instructor Gr.III was negatived, hence this petition for writ is filed by the petitioner.

This Court by order dated 19.9.2005 directed the respondents to produce original select list with a specific statement as to why the 10th vacancy was not filled in by them. In pursuant to the order dated 19.9.2005 learned Dy.G.A. has placed on record two documents showing that the petitioner was at Serial No.11 in the select list and the 10th vacancy was not filled in due to expiry of select list on 31.3.2004.

In view of the documents placed on record by learned Dy.G.A., it is clear that the respondents are still having one vacancy and the appointment was denied to the petitioner solely for the reason that the select list lost its currency on 31.3.2004. I am is of the opinion that during currency of select list a valuable right accrued to the petitioner to be appointed as Physical Training Instructor Gr.III being selected in accordance with law and being within the merit of selected incumbents there was no just and valid reason available to the respondents to deny

appointment to the petitioner as the person who was at Serial No.5 due to adverse character verification by police authorities, was not given appointment. No shelter can be given to the respondents to cover their fault on the ground that the select list is not in currency after 31.3.2004, looking to the fact that the respondents by order dated 6.9.2003 gave appointment even to the person who was not found fit for appointment due to adverse police verification and a revised order of appointment was passed on 30.3.2004 that is just a day before 31.3.2004. The petitioner approached the Court for redressal of his grievance immediately thereafter.

In view of whatever discussed above this petition for writ deserves acceptance and, therefore, the same is allowed with a direction to the respondents to appoint the petitioner as Physical Training Instructor Gr.III from the date the persons similarly situated were employed. However, the petitioner shall not be entitled for actual benefits with regard to payment of wages. However, all notional benefits are required to be given by treating him to be in employment of the respondents from the date persons similarly situated were employed.

(GOVIND MATHUR),J.

kkm/ps.